

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/748,329
First Named Inventor: MATIAS, Edgar
Filed: December 31, 2003
Title: Adjustable Cushioning System for Carrying Case
Art Unit: 3728
Examiner: PICKETT, John G.
Docket No.: P1282US00

Mail Stop AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF EDGAR MATIAS AND STEPHEN R. MCGOWAN
UNDER 37 CFR §1.132

We, Edgar Matias and Stephen R. McGowan, declare as follows:

1. We are the inventors of the invention described and claimed in the above-identified U.S. patent application.
2. We have been informed that claims 6, 7 and 9-11 in the above-identified application have been rejected as being obvious to one of ordinary skill in the art through an alleged combination of three (3) prior art references, namely, Shawler (US 4,899,888) ("Shawler"), Geary et al. (US 6,899,946) ("Geary") and Aileo (US 3,943,572) ("Aileo").
3. Our company, Matias Corporation, is the assignee of the present application and sells computer accessories, including carrying cases as described in the above-identified patent application.
4. Many items, particularly portable electronics, are unable to withstand significant impact without additional protection. Laptop computers, for example, offer the benefit of mobility over more traditional desktop computers. This

mobility, however, puts a laptop computer at higher risk of sustaining damage in transit. Falls are particularly dangerous, as the sharp impact can break the outer casing of the laptop and jar internal components, often damaging them.

5. A wide variety of carrying cases are available for laptop computers. However, there are also a wide variety of laptop computers with different dimensions. A carrying case that does not provide a snug fit leaves its contents vulnerable. During a fall, for instance, the contents will strike the inside of the case after impact, often resulting in damage. A snug fit that prevents the contents from shifting inside the carrying case offers more effective protection.

6. We developed a carrying case which makes use of a plurality of stackable shock-absorbent spacers, as recited in Claim 6 of the above-identified patent application. Claim 6 recites, inter alia, "a plurality of internal side walls", and "a plurality of stackable shock-absorbent spacers...wherein a hook and loop fastening system is provided to couple at least one of said plurality of stackable shock-absorbent spacers to at least one of said plurality of internal side walls and to couple adjacent ones of said stackable shock-absorbent spacers to one another." The foregoing claim recitations define how the spacers can be attached to the inside of the case as well as to each other, thereby allowing a user to tailor the interior of the carrying case to the contents' dimensions. This allows the case to provide a snug, motionless fit, regardless of the shape of its contents. The carrying case incorporates these claimed features and thereby provides improved protection over other cases.

7. Over the period of August 1, 2004 to November 30, 2007 approximately 17,000 units of the carrying case were sold, generating revenue in the amount of \$2,132,487.94.

9. In the summer of 2004, Alienware, a large manufacturer of desktop and laptop computers, expressed interest in selling carrying cases making use of the invention as claimed in the above-identified patent application. Their interest

was triggered by a demonstration video on our company's website showing one such case protecting a laptop computer from a fall onto bare concrete. The superior protection afforded by the case, defined by the recitations of claim 6, was the primary factor that caused them to buy our cases. The demonstration video is available at the following address:

<http://matias.ca/laptoparmor/resources/LaptopArmorDrop.mov>

10. In October of 2004, Alienware began selling our laptop cases to its customer base.


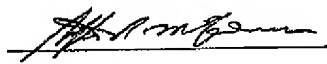
11. In the summer of 2006, Alienware was acquired by DELL, the world's second largest computer vendor, and the largest in the United States. In November of 2007, DELL began selling the carrying cases, having been introduced to them through Alienware.

12. Approximately 80% of the cases' sales have been in the U.S. Approximately 9% of sales have been to the U.S. military, where the case garnered accolades due to its excellent protection. A copy of an email received from a member of the U.S. Army is attached, which is identified as Exhibit A, from which it will be noted that survival of the soldier's laptop was, "due to the construction of your travel case", whose features are defined by rejected claims 6, 7 and 9-11.

13. We believe that the above evidence demonstrates that the commercial success of the carrying case described and claimed in the above-identified patent application can be attributed to the claimed features of the invention; namely, the plurality of spacers and fastening system which allow the user to adapt the internal dimensions of the carrying case to closely match the dimensions of the contents.

14. We are competent to testify as to the matters set forth above.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and the such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed:  Signed: 
Edgar Matias Stephen R. McGowan

Dated: Jan 20/2008 Dated: Jan 20, 2008

EXHIBIT "A"
TO THE DECLARATION OF EDGAR MATIAS AND STEPHEN R. MCGOWAN

CORRESPONDENCE

| | | | |
|---------|---|---------|--|
| Signed: |  | Signed: |  |
| | Edgar Matias | | Stephen R. McGowan |
| Dated: |  | Dated: |  |

Name: Che Craig

Email: che.c.craig@us.army.mil

Phone: 509-553-9487

I am writing to thank you for your incredibly well designed black aluminum 17" slim laptop case. I purchased the case to hold my Alienware Area-51 7700 laptop, prior to deploying for my 3rd tour in Iraq. During the tour this case performed excellently during a total of 243 combat patrols over a course of 364 days. My laptop not only survived the deployment it continued to function at peak levels, primarily due to the construction of your travel case. The sealed, padded case prevented 90% of the fine powdery sand from getting to my computer, and the padding and retention design protected it from the vibrations of traveling inside a combat vehicle of patrol.

The most impressive incident however was the 20' drop from a landing helicopter onto the tarmac. It landed on the bottom hing corner, bounced, and then tumbled with the wind created from the prop. The case unfortunately did not survive, but the computer inside was fine. I immediately sent the computer back to Alienware for any needed repairs, only to find out that other than some minor surface scratches, the computer was unharmed. Thank you again, and I will definitely be purchasing a replacement case for my Laptop from your company.